

## MEMORANDUM

To: Parties in PSB Docket No. 5980 and Other Interested Persons

From: Michael Dworkin, Chairman  
David Coen, Board Member  
John Burke, Board Member

Re: Public Service Board's Decision in re: Report of the Department of Public Service to the Board on Vermont's Energy Efficiency Utility

Date: August 1, 2002

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On May 29, 2002, the Vermont Department of Public Service ("DPS" or "Department") filed its Report and Recommendations to the Vermont Public Service Board Relating to the Energy Efficiency Utility ("DPS Report"). The Public Service Board ("Board") received written and oral comments upon the DPS Report.<sup>1</sup> After considering the Department's report and the parties' comments, the Board has made a number of decisions based upon the issues raised by the Department and the parties. This memorandum serves to memorialize the Board's decisions and the mandates which correspond to those decisions.

**1. The Board has notified Vermont Energy Investment Corporation ("VEIC") that the Board would like to renew the contract for VEIC to serve as Efficiency Vermont for another three-year period.**

On July 3, 2002, the Board notified VEIC that it would like to extend the term of its contract with VEIC until December 31, 2005. VEIC has informally notified the Board that

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1. The Board received written comments on the report from the City of Burlington Electric Department ("BED"), Central Vermont Public Service Corporation ("CVPS"), Green Mountain Power Corporation ("GMP"), International Business Machines Corporation ("IBM"), Washington Electric Cooperative ("WEC"), and the 14 Municipal Utilities. The DPS filed two responses to those comments. Independently of the DPS Report, the Energy Efficiency Utility's ("EEU") Advisory Committee also filed recommendations for the next contract cycle. On July 2, 2002, the Board held a workshop to discuss issues raised in the DPS Report and in the filed comments.

it would like to enter into negotiations regarding a contract extension. Negotiations will begin shortly; the Board's goal is to sign the contract extension by November 1, 2002.

**2. The Board will design the Energy Efficiency Charge to collect the following amounts from ratepayers in 2003, 2004, and 2005:**

<b>2003</b>	<b>\$16,172,252</b>
<b>2004</b>	<b>\$16,321,795</b>
<b>2005</b>	<b>\$17,500,000.</b>

The DPS recommends these amounts, and no commenter has challenged them. The allocation of the amounts between 2003 and 2004 is slightly modified from that agreed to in the Memorandum of Understanding in Docket 5980 ("MOU"), but their sum is the same as the MOU's total amount for 2003 and 2004. The amount for 2005 is the statutory maximum that can be collected via the Energy Efficiency Charge; it is clear that more cost-effective energy savings are available than could possibly be achieved with this level of spending.<sup>2</sup>

**3. The Board will work with VEIC to develop a contractual "scope of work" that is less focused on strict program definitions, but that provides for the continuation of the delivery of verifiable energy efficiency services to the markets currently served.**

The DPS recommends this change in emphasis to reflect the lessons learned during the past three years. Efficiency Vermont is increasingly customer-focused, and many customers' needs cross traditional program boundaries. A few commenters support this recommendation; no commenter has challenged it. The Board agrees that customers' needs should drive the structure used to deliver energy efficiency services, and that any barriers created by rigid program definitions should be removed, to the extent possible. We recognize that a variety of changes may be necessary to accomplish this goal, and we are willing to consider changes VEIC proposes in this area, provided that they do not hamper the Board's ability to carry out its responsibility to monitor the services provided, and expenditures made, by Efficiency Vermont.

**4. The Board will ask VEIC to propose new, more flexible, guidelines for shifting funds among various programs within the Residential and Commercial/Industrial sectors, while retaining some limitation on shifting funds between the sectors.**

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<sup>2</sup>The Board is accepting the May 29, 2002, draft of the DPS's report "Electric and Economic Impacts of Maximum Achievable Statewide Efficiency Savings" for the *limited* purpose of helping to establish an appropriate amount to be collected via the Energy Efficiency Charge in 2003-2005.

The EEU Advisory Committee originally raised the issue of fund shifting, and the DPS recommends allowing Efficiency Vermont more flexibility to shift funds among program areas. A few commenters support this recommendation; no commenter has challenged it. Based on our own experience with the fund-shifting provisions in the Board's current contract with VEIC, we agree that more flexibility is highly desirable. It will promote greater operational efficiency. In addition, as the DPS Report notes, there are better ways of ensuring that all key market segments are served, and program objectives are achieved. We will ask VEIC to propose new tools for managing budgets and accomplishing program goals.

**5. In the proceedings to establish the formula for determining the Energy Efficiency Charge,<sup>3</sup> the Board will consider the issue of whether any funds not spent in a particular year should be retained in a contingency fund or applied as a credit to the next year's Energy Efficiency Charge.**

Paragraph 19 of the MOU provides that the Energy Efficiency Utility shall file, on or before September 1 of each year, a request for reallocation of funds between and among programs. This request must also address whether any unspent budget amount should be retained in a contingency fund or applied as a credit to the next year's Energy Efficiency Charge. The Board's contract with VEIC includes a provision implementing this requirement (in other words, requiring Efficiency Vermont to make such a filing and request). The Advisory Committee recommends that this provision of the Board's contract with VEIC be discarded. The DPS recommends that the contract provision implementing the MOU requirement not be discarded, but that the Board give "high priority to the stability and predictability of the total three-year contract budget amount" when deciding what should be done with any unspent funds. The 14 Municipal Utilities recommend that the Board credit any unspent funds to the following year's budget prior to the calculation of the Energy Efficiency Charge.

If the Board decided not to allow unspent funds to be carried forward during the term of its contract with VEIC, it would lower the total amount available under the contract, which could require renegotiation of the contract's performance standards. At the same time, however, the Board does not want to be collecting funds from ratepayers that remain unspent for lengthy periods of time. As a result, we question whether unspent funds in the early years of a contract should be treated differently from unspent funds in the last year of a contract. Alternatively, perhaps some provision allowing for year-to-year carry-forward of funds within a defined limit (e.g., 8-12 percent) would be appropriate.<sup>4</sup> In any event, we consider this issue to be integral to the establishment of a formula for determining the Energy Efficiency Charge. Any such formula would need to have as an

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<sup>3</sup>These proceedings are discussed further under Paragraph 9, below.

<sup>4</sup>We note, for comparison, that 30 V.S.A. § 22(e)(1) contemplates a 20 percent "carry-forward" of Board funds from year to year.

input how any unspent funds from the prior year should be treated.<sup>5</sup> Therefore, we intend to consider this issue in the proceeding we are opening today to establish the formula for determining the Energy Efficiency Charge.

**6. The Board will invite VEIC to propose including in the new contract's scope of work a limited number of energy efficiency-related activities that will contribute to the acquisition of energy savings and the transformation of energy markets, but which do not produce immediate, easily-documented savings.**

The Advisory Committee suggests that the Board allocate a not-to-exceed cap of seven percent of program funds for energy-efficiency related activities that do not produce immediate, easily-documented savings. The DPS recommends that the Board not actually segregate funds, but structure the contract's performance incentives in such a way to encourage Efficiency Vermont to perform these activities. The 14 Municipal Utilities support allowing Efficiency Vermont to conduct market transformation activities, but disagree with the DPS's proposal regarding the contract's performance incentives.

The Board's current contract with VEIC strongly emphasizes the immediate acquisition of verifiable energy savings, rather than more abstract market transformation activities. The Board believes strongly that the contract's main focus should remain on achieving verifiable energy savings. However, we recognize that other energy efficiency-related activities have long-term benefits, and we are willing to consider specific proposals by VEIC for the inclusion of limited amounts of funds for such activities in the scope of work, and appropriate performance incentives related to such activities.

**7. The Board will not, at this time, require Efficiency Vermont to assume major new responsibilities in providing additional energy-related services to customers. However, the Board will suggest the inclusion of a provision that allows the Board and VEIC to modify the contract if major changes in funding or responsibilities are proposed at a future date.**

The Advisory Committee and the DPS recommend not requiring Efficiency Vermont to assume new responsibilities at the present time, but including in the contract a provision allowing for re-opening the contract if certain things occur in the future.<sup>6</sup> Several

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<sup>5</sup>The precise amount of unspent funds in a particular year, if any, will not be known at the time the Energy Efficiency Charge is set for the following year. This timing issue will also be considered in the proceedings to establish the formula for determining the Energy Efficiency Charge.

<sup>6</sup>The Advisory Committee's recommendation regarding re-opening the contract is limited to the possibility that Efficiency Vermont will be asked to play a larger role in distributed utility planning, while the DPS's recommendation refers generally to major changes in funding or responsibilities.

commenters supported such a provision in the contract, particularly for issues related to distributed utility planning; no commenter opposed such a contract provision.

The Board agrees with the DPS and the Advisory Committee that Efficiency Vermont should not dilute its focus on delivering energy efficiency services by assuming new responsibilities in other energy-related areas. We want delivering energy efficiency services to remain Efficiency Vermont's core, and fundamental, mission. However, additional efficiency measures that are linked to distributed utility planning activities or a limited role in load response activities could conceivably become part of this mission in the future. The MOU in Docket 5980 included a role for Efficiency Vermont in distributed utility planning, and it is possible that this role could be expanded as a result of the distributed utility planning process now underway in Docket 6290. At some point in the next three years, there may also be other proposed changes in funding or program responsibilities that we don't anticipate now. It would be appropriate for the contract to allow the Board to address such a situation if it were to arise. Therefore, we will suggest that the contract include a provision allowing the Board and VEIC to modify the contract if major improvements in funding or responsibilities are proposed in the future.

**8. The Board accepts BED's proposal to continue delivery of most Core Programs in its service territory until December 31, 2005. The Board notes that BED has proposed redesigning the Core Programs to include the retrofit activities that are now a part of the Emerging Markets Program in the other Core Programs, but takes no action on that proposal. Rather, the Board will consider this proposal at the same time that it considers any program modifications proposed by VEIC in contract negotiations. In addition, there are unresolved issues related to:**

- **the calculation of the portion of the EEC collected from BED's customers that will pay for costs related to measurement and evaluation, the Contract Administrator, and the Fiscal Agent;**
- **the methodology for collecting the gross revenue and weatherization taxes; and**
- **the methodology for collecting uncollectibles related to the EEC.**

**How the Board resolves those issues will affect the annual amount available to BED for implementation of most Core Programs in its service territory; however, it is anticipated that the Board's decisions on all those unresolved items combined will not change the annual amount available to BED to implement the Core Programs by more than approximately \$50,000. With those caveats, the Board accepts the following preliminary annual budgets for these programs:<sup>7</sup>**

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<sup>7</sup>BED's proposed redesign does not change the amount of funds that will be collected from BED's customers via the EEC. Rather, it shifts funds from the Emerging Markets Program, which will be implemented by Efficiency Vermont, to the other Core Programs, which will be implemented by BED.

	<b><u>With BED's Proposed Redesign</u></b>	<b><u>Without BED's Proposed Redesign</u></b>
<b>2003</b>	<b>\$756,805</b>	<b>\$551,805</b>
<b>2004</b>	<b>\$763,616</b>	<b>\$556,771</b>
<b>2005</b>	<b>\$818,597</b>	<b>\$596,859</b>

**BED shall file final proposed annual budgets, proposed program implementation plans, and proposed performance indicators for 2003-2005 by September 16, 2002.<sup>8</sup>**

In the Board's 9/22/00 Order in Docket 5980 authorizing BED to deliver most of the Core Programs in its service territory, the Board found that the DPS would conduct an evaluation of BED's performance delivering these Core Programs, and stated that the Board would conduct a thorough review of BED's performance in order to determine whether BED's approval to implement Core Programs should be renewed.<sup>9</sup> The consultant hired by the DPS to conduct the evaluation of BED's performance concluded that: (1) BED is delivering the Core Programs in a manner consistent with Efficiency Vermont; (2) BED is delivering the Core Programs with essentially the same proportion of administrative costs as Efficiency Vermont; and (3) BED appears to be on track for meeting the majority of the performance indicators established by the Board in its 9/22/00 Order in Docket 5980. As a result, the DPS recommends that the Board authorize BED to continue delivering Core Programs in its service territory for the next three-year contract period.

After reviewing BED's performance over the last two-and-a-half years, we conclude that BED should be allowed to continue to deliver all of the Core Programs except the Emerging Markets Program in its service territory until December 31, 2005. We take no action today on BED's proposal to redesign the Core Programs to include the retrofit activities now included in the Emerging Markets Program in the other Core Programs; rather, we will consider this when we consider VEIC's suggested program designs during contract negotiations. Therefore, we approve two preliminary budgets, the only difference between them being whether the Core Programs are redesigned in accordance with BED's proposal or not.<sup>10</sup> These two budgets are:

	<b><u>With BED's Proposed Redesign</u></b>	<b><u>Without BED's Proposed Redesign</u></b>
2003	\$756,805	\$551,805
2004	\$763,616	\$556,771
2005	\$818,597	\$596,859

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<sup>8</sup>The Board recognizes that these "final" proposals might change if the Board's contract negotiations with VEIC lead to significant changes in program designs. If it appears that significant changes will occur, the Board will consider modifying this filing deadline.

<sup>9</sup>Docket 5980, Order of 9/22/00, at 11.

<sup>10</sup>Both these budget figures are for the Core Programs only. Any funds BED spends on other (non-Core) energy efficiency programs would be in addition to these figures.

There are a number of unresolved issues that will affect these budgets, including those listed in the bold paragraph, above. However, all those unresolved issues combined are not expected to change either of these budgets by more than \$50,000. In addition to final budgets for 2003, 2004, and 2005, the Board must still approve program implementation plans and performance indicators for the years 2003-2005. Therefore, we require BED to file a detailed proposal for each of these items by September 16, 2002.

**9. The Board has determined that the Energy Efficiency Charge for 2003 should be uniform throughout the state, except for BED and WEC. Today, by separate order, the Board is opening Docket No. 6741 in which it will determine the methodology for calculating the Energy Efficiency Charge for 2003. Board staff will hold a prehearing conference and workshop on August 9, 2002, to discuss procedural schedules and key issues to be addressed in the Docket. This Docket must be completed in time for the Energy Efficiency Charge for 2003 to be implemented for bills rendered on or after February 1, 2003. More detail is provided in the Order opening the investigation.**

The DPS initially recommended that the Board establish an Energy Efficiency Charge that is uniform throughout the state, with the possible exception of BED's service territory. Several commenters support this recommendation; no commenter opposes it generally. However, WEC argues that its customers should also pay a rate different than the statewide one. After discussions with WEC, the DPS agrees that, throughout a transition period ending in 2005, WEC's customers should also pay a rate different than the statewide one.

We agree that it is in the public interest to move to a uniform statewide Energy Efficiency Charge. The use of different rates in each electric utility service territory for the last three years has minimized the rate impacts of the transition from demand-side management spending by utilities to statewide implementation of energy efficiency programs. It is now appropriate to define a path for completing this transition period, and to move to a statewide charge that more accurately reflects the fact that Efficiency Vermont is providing the same services to customers in almost all service territories.

However, in the near future, both BED and WEC face unique circumstances that make it appropriate for their customers to pay a different Energy Efficiency Charge. As noted in Paragraph 8, above, BED will continue to deliver almost all the Core Programs in its service territory, and these programs will be paid for out of funds collected via the Energy Efficiency Charge. Therefore, it is reasonable to set the Energy Efficiency Charge for BED's customers to collect the amount of money BED expects to spend on implementing Core Programs, plus BED's customers' share of other EEU expenses (such as Emerging Market Program costs, evaluation costs, fiscal agent and contract administrator costs, etc.). Using this approach, BED and the DPS agree that BED's customers should pay the following amounts via the Energy Efficiency Charge:

2003	\$838,475
2004	\$845,928
2005	\$906,557.

The Board has reviewed these figures and concludes they are reasonable.<sup>11</sup> These amounts are slightly less than what would probably be collected from BED's customers if they paid the statewide uniform charge; this may reflect costs to implement energy efficiency programs that are slightly lower than the statewide average due to BED's compact and relatively densely-populated service territory. The methodology of the Energy Efficiency Charge for BED's customers for the year 2003 will be determined in Docket 6741.

WEC also faces special circumstances. Pursuant to the July 29, 2002, agreement between the DPS and WEC regarding issues related to the EEU,<sup>12</sup> and as described further in Paragraph 10 below, WEC will be coordinating with Efficiency Vermont regarding the implementation of the Residential New Construction Core Program in its service territory, and in the future this Program will be paid for out of funds collected via the Energy Efficiency Charge. In addition, WEC will continue to implement its Residential Retrofit Program (which is not a Core Program) substantially as it does now, at an annual funding level of approximately \$100,000. Also noteworthy is that WEC has performed a significant amount of energy efficiency activities in the past, the costs of which are currently being amortized in its rates; however, the amount of amortization will drop substantially in 2006. Finally, as a result of a negotiated settlement with the DPS that the Board approved in Docket 5980, the Energy Efficiency Charge paid for by WEC's customers in 2002 was considerably below that paid by customers of other utilities. Taken all together, these factors mean that WEC's customers are already paying a significant amount for energy efficiency services, and immediately increasing their Energy Efficiency Charge to the uniform charge would significantly affect their rates. After considering this issue, the Board has decided that an additional three-year transition period for WEC's customers is justified in order to minimize the rate impact on them.<sup>13</sup> Therefore, the Board is approving the July 29, 2002, agreement between the DPS and WEC. Specifically, the Board approves the payment by WEC's customers of:

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<sup>11</sup>The Board recognizes that these numbers are preliminary and that BED may propose slightly different figures in its September 16, 2002, filing.

<sup>12</sup>This agreement addresses (1) the appropriate level of an EEC for WEC's customers in 2003, 2004, 2005, and beyond; (2) the delivery of the Residential New Construction Core Program in WEC's service territory during 2003-2005 and the method of funding this program; and (3) the continued implementation of WEC's Residential Retrofit Program during 2003-2005. In this memorandum, the Board is approving the agreement in its entirety. The first and third elements of this agreement are addressed in this paragraph. The second element is addressed in Paragraph 10, below.

<sup>13</sup>It is important to note that the Board is concerned about this rate impact because it would result from the unique effects of WEC customers' total past, present, and proposed future energy efficiency investment. That is, WEC customers' already significant energy efficiency expenditures would be increased substantially. The rate impact on WEC's customers would not be nearly as troubling to the Board if the starting point were an inadequate level of spending on energy efficiency activities in the past.



- an EEC equivalent to 2.4 mills/kWh for the years 2003 and 2004;
- an EEC equivalent to 2.6 mills/kwh for the year 2005; and
- the uniform statewide EEC beginning in 2006.

The methodology of the Energy Efficiency Charge for WEC's customers for the year 2003 will be determined in Docket 6741.

We are opening Docket 6741 to establish the Energy Efficiency Charge for the year 2003, so that next year's charge will be set in time for utilities to change their billing software and implement the new charge by the first of the year. We know there is a disagreement over whether the charge should be a uniform percentage of bill, or a uniform mills per kwh amount, and if the latter, how customers who are on a demand rate should be accounted for. In addition, there are issues associated with unspent funds (see paragraph 5, above), and how to provide an opportunity for parties to comment before the Charge is recalculated. We believe it will be helpful for Board staff to hold multiple workshops to discuss these and any other issues parties wish to raise, prior to a technical hearing on the merits of the methodology of the charge for year 2003. The first workshop will be held immediately following the prehearing conference on August 9, 2002, in the Board's Third Floor Hearing Room in the Chittenden Bank Building, 112 State Street, Montpelier.

In January 2003, the Board will initiate a rulemaking to develop a methodology to set the charge for future years. There is merit to establishing a formula that can be used to calculate the Energy Efficiency Charge without extensive litigation every time the Charge needs to be changed, and a rulemaking is the appropriate vehicle to establish such a formula. However, before the Board can open a rulemaking, we need to develop a proposed rule. Therefore, Board staff will hold at least one workshop to discuss drafts of language that could be included in a proposed Board rule prior to initiating the rulemaking. At that time, parties will be able to (but not required to) prepare and circulate draft language for discussion at the workshop. The Board will set the date for this workshop after Docket 6741 is concluded.

**10. The Board accepts the agreement between WEC and the DPS that provides for delivery of the statewide Residential New Construction Core Program in WEC's service territory by Efficiency Vermont, in coordination with WEC, until December 31, 2005. This Program will be funded out of funds collected via the Energy Efficiency Charge.**

Pursuant to the Bilateral Agreement between WEC and the DPS that the Board approved in its 9/30/99 Order in Docket 5980, WEC has been administering residential new construction and residential retrofit programs in its service territories. These programs have been funded out of WEC's regular tariff charges (that is, not out of funds collected via the Energy Efficiency Charge). In addition, WEC's ratepayers have been paying an Energy Efficiency Charge to fund Efficiency Vermont's Core Programs, other than the Residential New Construction Program.

WEC originally proposed to continue to administer residential new construction and residential retrofit programs through 2005, and it proposed significant changes to its current residential new construction program to make it more consistent with the

Residential New Construction Core Program.<sup>14</sup> The DPS originally recommended allowing WEC to make a proposal to continue to implement the Residential New Construction Program.

After discussions, WEC and the DPS agreed that the Residential New Construction Program will be delivered in WEC's service territory by Efficiency Vermont in coordination with WEC.<sup>15</sup> Coordination will be primarily related to branding, accommodating program design differences created by the energy assessment tariff, and member service. It is expected that there will be changes in the design of the Residential New Construction Program as delivered in WEC's service territory; these changes will be discussed and agreed upon by WEC and Efficiency Vermont. In addition, the agreement between the DPS and WEC provides that WEC's reasonable costs for its coordination services in connection with the Residential New Construction Program will be paid to WEC through a contract with Efficiency Vermont, and therefore ultimately from the EEC. The specific financial and operational terms between WEC and Efficiency Vermont will be included in a contract between those parties to be finalized by January 1, 2003.

We approve this change in the implementation of the Residential New Construction Program in WEC's service territory. We are pleased that WEC's members will benefit from the statewide Residential New Construction Program paid for via the EEC, combined with unique features available to WEC's customers paid for by WEC. We are also pleased that WEC is willing to work closely with Efficiency Vermont in delivering this program. Both entities have a successful track record delivering energy efficiency services; a close partnership between them will hopefully enhance their individual abilities.

Two points deserve further comment. First, the Board must approve the program design for the Residential New Construction Program to be offered in WEC's service territory, including any unique features and enhancements agreed to by WEC and Efficiency Vermont. Accordingly, we will require WEC to file the proposed program design (as agreed to by Efficiency Vermont) with the Board and the DPS, on or before December 1, 2002.<sup>16</sup> Second, we will require WEC to file a copy of the agreement it reaches with Efficiency Vermont regarding coordination as soon as it is finalized, but no later than December 31, 2002, and we explicitly reserve jurisdiction to resolve any disputes

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<sup>14</sup>WEC's residential retrofit program is not a Core Program. WEC is free, as are all distribution utilities, to provide energy efficiency services outside the scope of the Core Programs to its customers, and to pay for those services through a mechanism other than the Energy Efficiency Charge authorized in 30 V.S.A. § 209(d)(3).

<sup>15</sup>The agreement allows WEC and Efficiency Vermont to agree to make available to WEC's customers unique features and enhancements to the Residential New Construction Program. The cost of any such unique features and enhancements will be borne by WEC.

<sup>16</sup>The Board will consider modifying this filing deadline if justified by the Board's negotiations with VEIC, or upon request. Any such request should keep in mind that the final program design must be approved by the Board prior to its implementation on January 1, 2003.

that may arise under that agreement.<sup>17</sup> This requirement is similar to that imposed on BED in the Board's 9/22/00 Order in Docket 5980.

Finally, we note that WEC and the DPS have agreed to fund the Residential New Construction Program out of funds collected via the Energy Efficiency Charge rather than through WEC's rates, but WEC has not proposed reducing its rates to remove the approximately \$53,000 per year currently spent on implementing its residential new construction program. Therefore, the total amount paid by WEC's customers will increase by approximately \$53,000 per year. However, this is less than 0.6 percent of WEC's total revenue requirement of slightly over \$9 million. We do not find this increase to be material enough to justify opening an investigation into WEC's overall rate levels at this time.

**11. The Board expects to modify the Customer Credit Program to (1) extend the time frame for using and applying "available funds" from two to three years;<sup>18</sup> (2) allow "available funds" to be used to pay for any fees that Efficiency Vermont may charge customers who participate in any energy efficiency training programs that it may offer; and (3) clarify that any payments to a participating customer must be timed so that they do not exceed the amount of "available funds" already paid by the customer. All other aspects of the Customer Credit Program will remain the same as they are now.**

IBM recommends making four modifications to the Program: (1) extending the time frame for using and applying "available funds" from two to three years; (2) reducing the Return on Investment period for retrofit projects from 18 to 12 months to make such projects more attractive; (3) allowing program funds to be used to reimburse the cost of energy efficiency training and related activities; and (4) allowing program funds to be used to reimburse the cost to establish, modify, and expand the Customer Load Response Program. The DPS recommends continuing the Customer Credit Program as it has been operated, although it supports providing Efficiency Vermont the flexibility to allow customers to make a special request to reserve funds for an additional year provided the funds are designated for a specific project or proposal. The DPS does not support advance access to future funds.

After carefully considering IBM's suggested modifications, we find that the first suggestion has merit. Planning and implementing a significant energy efficiency project may take longer than two years, and business cycles (which affect capital investment) can

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<sup>17</sup>We do not intend to take any action regarding this agreement, unless a dispute arises under the agreement. In addition, we expect WEC and VEIC to bring any disputes under the agreement to the Contract Administrator before asking the Board to resolve the disputes.

<sup>18</sup>More specifically, this change will extend the time period to either the two immediately preceding calendar years and the current calendar year, or the immediately preceding calendar year, the current calendar year, and the immediately following calendar year. This change would not extend the time period forward to an additional future calendar year.

also be longer than two years. Therefore, it is appropriate to extend the time frame for using and applying "available funds" from two to three years, with the DPS's recommended caveat that the time period is extended backward, but not forward. That is, the time period is either the two immediately preceding calendar years and the current calendar year, or the immediately preceding calendar year, the current calendar year, and the immediately following calendar year. This change would not extend the time period forward to an additional future calendar year. We also agree with the DPS's recommendation that any funds carried forward to a third year must be designated for a specific project or proposal. In other words, we are extending the time frame to plan and complete projects, but we are not creating a situation where a customer can set aside the funds for an additional year without knowing what project it will spend the funds on. However, we are not determining today what the administrative process should be regarding the carry forward for an additional year.<sup>19</sup> We intend to discuss this aspect of program design during contract negotiations with VEIC.

The Board acknowledges that energy efficiency training can be helpful, but we do not want a significant amount of program funds to be diverted from other purposes and into this area. The Customer Credit Program's focus should remain on projects that achieve energy savings. Therefore, if Efficiency Vermont offers some type of energy efficiency training for which customers receiving the training must pay a fee, we will allow customers participating in the Customer Credit Program to pay this fee out of "available funds". But, we will not allow "available funds" to be used to pay for other energy efficiency training opportunities. As the DPS points out, none of the other Core Programs include payment of costs incurred by customers who receive energy efficiency training by entities other than Efficiency Vermont; therefore, we believe it would be inequitable to allow customers participating in this program to do so.

The Board declines to adopt IBM's other suggested modifications to the Customer Credit Program. While we understand that it is easier to get approval for projects if they come out of a company's expense budget rather than its capital budget, at this time we are persuaded by the DPS's argument that an 18-month Return on Investment period is reasonable and should not be shortened.<sup>20</sup> Finally, while energy efficiency and load response both are a form of demand response that the Board supports, they are different and should not be confused. Since the Board has decided Efficiency Vermont should continue its core focus upon efficiency, it would be inappropriate to allow customers

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<sup>19</sup>The DPS recommends that a customer be required to request from Efficiency Vermont that the funds be reserved for an additional year.

<sup>20</sup>In addition, we are uncomfortable with changing the Return on Investment period for this Program in a manner that would make it inconsistent with the Return on Investment period for the other Commercial/Industrial Core Programs. We will discuss this broader issue with VEIC during contract negotiations, and may revisit today's decision after that broader discussion. We will be interested in potential mechanisms and incentives for VEIC to be responsible for achieving verified savings, with discretion to determine appropriate pay-back periods as it deems most effective for that goal.

participating in the Customer Credit Program to use "available funds" to pay for their activities in this area.

We are making one clarification to the Customer Credit Program. As currently written, because "available funds" can include funds a participating customer is expected to pay in the following calendar year, it is conceivable that a customer could ask to receive funds it has not yet paid. This situation has not occurred, but if it were to occur, it could have a significant impact on Efficiency Vermont's ability to deliver its other energy efficiency programs. Therefore, it is desirable to modify the program to be clear about the timing of payments to participating customers. This does not change the definition of "available funds", it simply establishes that customers who apply for "available funds" they have not yet paid will not receive the funds until after they have been collected by the Fiscal Agent via the Energy Efficiency Charge.

**12. The Board will set aside the following amounts from the funds collected via the Energy Efficiency Charge for the conduct of continuing evaluation activities by the DPS:**

<b>2003</b>	<b>\$533,684</b>
<b>2004</b>	<b>\$538,619</b>
<b>2005</b>	<b>\$577,500.</b>

The DPS proposes an evaluation budget of 3.3 percent of the total budget for all energy efficiency utility-related activities. This amount is a smaller percentage than that approved for evaluation activities for the years 2000-2002. No commenter challenged this recommendation. We find it reasonable and approve the proposed budgets. The DPS will continue to follow the current process for obtaining payment for energy efficiency utility-related evaluation expenditures from the Fiscal Agent.

**13. In September 2004, the Board will open an investigation into the economically achievable energy efficiency potential in Vermont. This docket will review an update of the assessment of economically achievable energy potential conducted under the DPS's direction. Pursuant to 30 V.S.A. §§ 20 and 21, the costs of conducting that update may be allocated to the state's electric distribution utilities.**

The DPS recommends that it conduct an update of the assessment of economically achievable energy potential in Vermont as part of the EEU selection process in 2005, and that in early 2005 the Board open an investigation regarding this assessment so that it can bill the costs of conducting that update back to utilities. No commenter opposed this recommendation.

We agree that an update of the assessment of economically achievable energy potential in Vermont should be conducted as part of the next EEU selection process. However, the Board anticipates that the 2005-2006 EEU selection process will take longer because the Board will be issuing a request for proposals, rather than just negotiating with the current contractor. We are concerned that the docket in which the update is considered be concluded early enough in 2005 for the Board to establish appropriate energy efficiency

utility budgets for future years, and issue a request for proposals in a timely manner. Therefore, we will open this investigation in September 2004, rather than early in 2005, as requested by the DPS. In addition, we require the DPS to propose, by July 1, 2004, a timeline for the activities it will perform in preparation for the selection of a new EEU contractor. The Board will establish a schedule for the 2005 EEU selection process after considering the DPS's proposal.